

REMARKS

Entry of the foregoing, reexamination and further and favorable reconsideration of the subject application in light of the following remarks, pursuant to and consistent with 37 C.F.R. § 1.114, are respectfully requested.

By the foregoing amendment, claim 17 has been canceled without prejudice or disclaimer to the subject matter recited therein. Further, claims 11, 19, 20 and 27 have been amended. In particular, claim 11 has been amended to recite that the claimed lipid contains "75% by weight or more of arachidonic acid to the total fatty acids in said lipid" and claim 27 has been amended recite "wherein the arachidonic acid content to the total fatty acid in the lipid is 75% by weight or more". Support for these amendments can be found on at least page 25, line 1 of the originally filed application. Claims 19 and 20 have been amended to now be dependent upon pending claim 27, as opposed to canceled claim 17. No new matter has been added by the amendments to the claims. Applicants reserve the right to file one or more continuation or divisional applications directed to any subject matter herein canceled.

Turning now to the Office Action mailed on February 10, 2004, claims 11-12, 17-22 and 27-37 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as purportedly being obvious over Totani et al. Claims 11-12, 17-22 and 27-37 have been additionally rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as purportedly being obvious over Li et al. All of these rejections are respectfully traversed.

The Examiner is well aware that every element of the claimed invention must be disclosed in a single item of prior art in the form literally defined in the claim in

order for prior art to be anticipatory. See, e.g., *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 231 USPQ 81, 90 (Fed. Cir. 1986). Here, neither Totani et al. nor Li et al. disclose an isolated arachidonic acid-containing microbial lipid that contains "75% by weight or more" of arachidonic acid to the total fatty acids in the microbial lipid. The Examiner's attention is directed to applicants' remarks in the Amendment and Reply previously filed on December 10, 2003. As such, neither Totani et al. nor Li et al. are anticipatory prior art references against the claimed invention.

The Examiner has alternatively argued that the claims are rendered obvious over Totani et al. and Li et al., respectively. However, neither Totani et al. nor Li et al. teach or suggest modifying their lipids so as to contain "75% by weight or more" of arachidonic acid to the total fatty acids in the microbial lipid. Without any motivation to modify the lipids of the cited references, a *prima facie* case of obviousness has not been set forth.

Since Totani et al. and Li et al. do not anticipate or render obvious applicants' claimed invention, the Examiner is respectfully requested to withdraw these rejections.

From the foregoing, further and favorable action in the form of a Notice of Allowance is respectfully requested and such action is earnestly solicited.

In the event that there are any questions concerning this amendment or the application in general, the Examiner is respectfully requested to telephone the undersigned so that prosecution of the application may be expedited.

Respectfully submitted,

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